

EXHIBIT B

Congress of the United States
Washington, DC 20510

July 14, 2020

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Azar:

We write to you today because the coronavirus disease 2019 (COVID-19) pandemic has laid bare the deepest and most entrenched chronic public health crisis plaguing our country: systemic racism. The unjust reality that Black, Brown, and Indigenous communities have been disproportionately infected and killed by COVID-19 underscores that racism, discrimination, and bias are public health problems that the federal government must prioritize. The Department of Health and Human Services (HHS) is required by law to report biannually to Congress on its progress to address health disparities, but these reports appear to have stopped under the Trump Administration. Without successfully addressing these racial disparities in health outcomes and health care access, we will not be able to mitigate and fully control the COVID-19 pandemic. You have, to date, failed to do so, with tragic consequences.

Today, as coronavirus outbreaks are surging to record levels across the United States,¹ we are just beginning to understand the extent to which racial disparities are driving this increase. People of color are disproportionately likely to contract COVID-19—with one expert noting that “these communities share common social and economic factors, already in place before the pandemic, that increase their risk for COVID-19,” such as working in essential jobs, living in crowded housing conditions, or lacking access to health care²—and when they contract the disease, they are more likely to be severely affected by it. Centers for Disease Control and Prevention (CDC) data show that fatality rates due to COVID-19 are significantly higher for Black and Hispanic/Latinx people than for white people—leading the agency to conclude that “long-standing systemic health and social inequities have put some members of racial and ethnic minority groups at increased risk of getting COVID-19 or experiencing severe illness, regardless of age.”³ Recently released data from the Centers for Medicare and Medicaid Services (CMS)

¹ NPR, “Tracking the Pandemic: Are Coronavirus Cases Rising or Falling In Your State,” Stephanie Adeline et. al., July 9, 2020, <https://www.npr.org/sections/health-shots/2020/03/16/816707182/map-tracking-the-spread-of-the-coronavirus-in-the-u-s>.

² Johns Hopkins Medicine, “Coronavirus in African Americans and Other People of Color,” Sherita Hill Golden, April 20, 2020, <https://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/covid19-racial-disparities>.

³ Centers for Disease Control and Prevention, “Coronavirus Disease 2019: Racial & Ethnic Minority Groups,” Updated June 25, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>.

reveals that Black Medicare enrollees were four times as likely to be hospitalized from COVID-19 as white enrollees, and Hispanic enrollees were more than twice as likely to be hospitalized.⁴

The coronavirus pandemic is just the latest and clearest manifestation of racial disparities affecting health outcomes—but it should come as no surprise. In 2003, the Institute of Medicine synthesized a large body of research and found that “evidence of racial and ethnic disparities in healthcare is, with few exceptions, remarkably consistent across a range of illnesses and healthcare services.”⁵ In the nearly-twenty years since the report was published, these health care disparities persisted, including in health outcomes for diabetes, heart disease, asthma, AIDS/HIV, and, now, COVID-19.⁶ Black people, in particular, are disproportionately impacted. Black babies are more than twice as likely to die than non-Hispanic white babies.⁷ Black women are three to four times more likely to die of pregnancy-related complications than non-Hispanic white women.⁸ Black men are up to 3.5 times as likely to be killed by police as white men, and 1 in every 1,000 black men will die as a result of police violence.⁹ This police violence has adverse effects on mental health in Black communities.¹⁰ And the average life expectancy of Black Americans is almost four years lower than it is for white Americans.¹¹

In addition, people of color are also less likely to be insured,¹² and many communities of color have shortages of health care providers, making it difficult to access appropriate care.¹³

⁴ NPR, “Black Medicare Patients With COVID-19 Nearly 4 Times As Likely to End Up In Hospital,” Maria Godoy, June 22, 2020,” <https://www.npr.org/sections/health-shots/2020/06/22/881886733/black-medicare-patients-with-covid-19-nearly-4-times-as-likely-to-end-up-in-hosp>.

⁵ Institute of Medicine, “Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care,” Committee on Understanding and Eliminating Racial and Ethnic Disparities in Health Care, 2003, <https://www.ncbi.nlm.nih.gov/books/NBK220355/>.

⁶ Kaiser Family Foundation, “Disparities in Health and Health Care: Five Key Questions and Answers,” Samantha Artiga, Kendal Orgera, and Olivia Pham, March 4, 2020, <https://www.kff.org/disparities-policy/issue-brief/disparities-in-health-and-health-care-five-key-questions-and-answers/>.

⁷ U.S. Department of Health and Human Services Office of Minority Health, “Infant Mortality and African Americans,” <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=4&lvlid=23>.

⁸ Centers for Disease Control and Prevention, “Reproductive Health: Pregnancy-Related Deaths,” <https://www.cdc.gov/reproductivehealth/maternalinfanthealth/pregnancy-relatedmortality.htm>.

⁹ Washington Post, “Police killing black people is a pandemic, too,” Osagie K. Obasogie, June 5, 2020, https://www.washingtonpost.com/outlook/police-violence-pandemic/2020/06/05/e1a2a1b0-a669-11ea-b619-3f9133bbb482_story.html.

¹⁰ The Lancet, “Police killings and their spillover effects on the mental health of black Americans: a population-based, quasi-experimental study,” Jacob Bor et. al, June 21, 2018, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(18\)31130-9/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)31130-9/fulltext).

¹¹ New York Times, “Black Americans Are Living Longer, C.D.C. Reports,” Gina Kolata, May 2, 2017, <https://www.nytimes.com/2017/05/02/health/black-americans-death-rate-cdc-study.html>.

¹² Kaiser Family Foundation, “Changes in Health Coverage by Race and Ethnicity Since the ACA, 2010-2018,” Samantha Artiga, Kendal Orgera, and Anthony Damico, March 5, 2020, <https://www.kff.org/disparities-policy/issue-brief/changes-in-health-coverage-by-race-and-ethnicity-since-the-aca-2010-2018/>.

¹³ Academic Medicine: Journal of the Association of American Medical Colleges, “Predictors of Primary Care Physician Practice Location in Underserved Urban or Rural Areas in the United States: A Systematic Literature Review,” Amelia Goodfellow et al., 2016, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5007145/>.

⁸ Mother Jones, “Big Outbreaks like the Coronavirus Actually Do Discriminate: Against the Poor and Most Needy,” Kiera Butler, February 7, 2020, <https://www.motherjones.com/environment/2020/02/these-groups-could-suffer-the-most-in-a-us-coronavirus-outbreak/>.

Furthermore, a history of discrimination and marginalization has left some people of color distrustful of the medical system,¹⁴ making them less likely to seek out timely care.

In 2010, Congress recognized racial disparities as an urgent health crisis and as part of the *Patient Protection and Affordable Care Act* (ACA), elevated the Office of Minority Health at the Department of Health and Human Services (HHS) to “lead and coordinate activities that improve the health of racial and ethnic minority populations and reduce health disparities.”¹⁵ As part of that effort, six offices of minority health were established within agencies at HHS: CDC, CMS, the Agency for Healthcare Research and Quality (AHRQ), the Food and Drug Administration (FDA), the Health Resources and Services Administration (HRSA), and the Substance Abuse and Mental Health Services Administration (SAMHSA).¹⁶

The ACA also required the Office of Minority Health to report to Congress on its activities every two years, and required the heads of the sub-agencies at HHS to “submit to the Deputy Assistant Secretary for Minority Health a report summarizing the minority health activities of each of the respective agencies.”¹⁷ In 2011, HHS published its “Action Plan to Reduce Racial and Ethnic Health Disparities,” which defined goals and priorities for the agency.¹⁸ HHS proceeded to publicly post reports to Congress on its website for the subsequent two years.¹⁹ However, the Trump Administration has failed to publicly produce reports as mandated by Congress for 2017 and 2019.

The latest HHS report to Congress on Minority Health Activities available from 2015 highlights a number of initiatives the Obama Administration undertook across all offices and sub-agencies within HHS specifically aimed at addressing racial disparities. The contribution from the Office of the Assistant Secretary for Preparedness and Response (ASPR) could have been particularly informative in preparing for the COVID-19 pandemic. It highlights a number of goals that the agency identified as important for the federal government to address in its response to natural disasters and infectious disease outbreaks, including increasing the diversity of health care and public health workforce involved in the National Disaster Medical System; reducing disparities in population health by strengthening the Hospital Preparedness Program; promoting outreach campaigns through the ASPR Office of Communications; implementing the National Health Security Strategic Implementation Plan; expanding medical countermeasure (MCM) label indicators to at-risk populations; considering at-risk individuals’ needs in Strategic National Stockpile formulary analyses; improving the availability and quality of data on racial and ethnic minority populations through ASPR; and conducting research to inform disparities and reduction

¹⁴ New York Times, “Bad Medicine: The Harm That Comes From Racism,” Austin Frakt, January 13, 2020, <https://www.nytimes.com/2020/01/13/upshot/bad-medicine-the-harm-that-comes-from-racism.html>.

¹⁵ 42 USC §300u–6; U.S. Department of Health and Human Services, “Offices of Minority Health at HHS,” <https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=7>.

¹⁶ U.S. Department of Health and Human Services, “Offices of Minority Health at HHS,” <https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=7>.

¹⁷ Pub. L. 111–148, title X, §10334(a)(3), Mar. 23, 2010, 124 Stat. 972.

¹⁸ U.S. Department of Health and Human Services, “HHS Action Plan to Reduce Racial and Ethnic Health Disparities,” 2011, https://minorityhealth.hhs.gov/npa/files/plans/hhs/hhs_plan_complete.pdf.

¹⁹ U.S. Department of Health and Human Services, “Report to Congress on Minority Health,” Accessed July 9, 2020, <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=57>.

initiatives.²⁰ Fulfilling and building upon these goals would have improved pandemic response efforts aimed at mitigating racial disparities prior to the start of the COVID-19 outbreak in the United States. The Trump Administration's inability or unwillingness to take these actions represent part of a long list of failures in preparing for and responding to the COVID-19 outbreak.

To help us understand why HHS under the Trump Administration has failed to take appropriate action to address racial disparities in health care and health outcomes, we ask that you, please provide the requested documents and answers to the following questions by no later than July 28, 2020:

1. The ACA requires that HHS report biannually to Congress on Minority Health Activities. HHS has publicly posted reports for the years 2011, 2013, and 2015.²¹ Please provide the reports for 2017 and 2019. If these reports are not available, please explain why not and the agency's plans to provide the next report.
2. Please provide the latest reports produced by HHS's six sub-agencies for the Deputy Assistant Secretary for Minority Health as required by the ACA.²² If these reports do not exist, please explain why not.
3. Please provide an update on all of the ASPR's efforts to complete the goals laid out in the 2015 "Report to Congress on Minority Health Activities as Required by the Patient Protection and Affordable Care Act (P.L. 111-148)."²³ For each of the specific goals outlined for the ASPR in the report, please provide an update on the agency's efforts to achieving those goals in the past five years and an update on the agency's related-efforts specific to COVID-19.
4. Please provide any additional updates on the actions sub-agencies or offices within HHS have undertaken to address racial disparities in health outcomes in the past five years, including by answering these specific questions:
 - a. The CDC has produced two CDC Health Disparities and Inequalities Reports in 2011 and 2013, and two Strategies for Reducing Health Disparities Reports in

²⁰ U.S. Department of Health and Human Services, "Report to Congress on Minority Health Activities as Required by the Patient Protection and Affordable Care Act (P.L. 111-148)," Office of the Secretary & Office of Minority Health, 2015, https://www.minorityhealth.hhs.gov/Assets/pdf/2015_0916_Report_to_Congress_on_Minority_Health_Activities_FINAL.pdf.

²¹ U.S. Department of Health and Human Services, "Report to Congress on Minority Health," Accessed July 9, 2020, <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=57>.

²² Pub. L. 111-148, title X, §10334(a)(3), Mar. 23, 2010, 124 Stat. 972.

²³ U.S. Department of Health and Human Services, "Report to Congress on Minority Health Activities as Required by the Patient Protection and Affordable Care Act (P.L. 111-148)," Office of the Secretary & Office of Minority Health, 2015, https://www.minorityhealth.hhs.gov/Assets/pdf/2015_0916_Report_to_Congress_on_Minority_Health_Activities_FINAL.pdf.

2014 and 2016.²⁴ When does CDC plan to produce its next report on health equity?

- b. In 2015, CMS produced the “CMS Equity Plan for Improving Quality in Medicare,” and also produced an update on the agency’s progress to completing the plan one year later.²⁵ Please provide an update on the agency’s efforts to carry out the plan in the past five years. Are there additional efforts CMS has undertaken to address health disparities in the past five years?
- c. In 2017, HRSA produced and publicly posted a Health Equity Report.²⁶ The report concluded that “future editions of the Report might explore in-depth a specific health equity theme or an emerging public health issue.” Please provide an update on future editions of the report, and what progress HRSA has made in addressing its health equity goals in the years since it published its 2017 report.

Thank you for your attention to this matter.

Sincerely,

Elizabeth Warren
United States Senator

Ayanna Pressley
United States Representative

²⁴ Centers for Disease Control and Prevention, “Health Equity,” <https://www.cdc.gov/minorityhealth/strategies2016/index.html>.

²⁵ Centers for Medicare and Medicaid Services, “CMS Equity Plan for Medicare,” <https://www.cms.gov/About-CMS/Agency-Information/OMH/equity-initiatives/equity-plan>.

²⁶ Health Resources and Services Administration Office of Health Equity, “Health Equity Report 2017,” <https://www.hrsa.gov/sites/default/files/hrsa/health-equity/2017-HRSA-health-equity-report.pdf>.